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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Martin Weiss

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EXAMINER

LUONG, VINH

ART UNIT

PAPER NUMBER

3682

NOTIFICATION DATE

DELIVERY MODE

02/21/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/605,852	Applicant(s) WEISS, MARTIN	
	Examiner Vinh T. Luong	Art Unit 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2007 and 29 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-3, 5-14, 20 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-18, 21, 22 and 25 is/are rejected.
- 7) ☒ Claim(s) 19 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. A request for continued examination (RCE) under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 20, 2007 has been entered.

2. The restriction requirement and the election of the species of FIG. 3 in the parent application are carried over to the instant RCE application.

3. Claims 1-3, 5-14, 20, and 24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on November 2, 2005.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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6. Claims 15-18, 21, 22, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamashita (US Patent No. 5,946,978).

Regarding claim 15, Yamashita teaches a control cable adjustment device 12 for adjusting a control cable 14b extending between a control mechanism 16 (FIG. 3) and an operating mechanism 18 (FIG. 1), the adjustment device 12 comprising:

an adjuster 40 having an axial bore 70 (FIG. 7. *Ibid.* col. 4, line 58+), the adjuster 40 rotatably connected to a housing 50 of the control mechanism 16 such that the adjuster 40 is axially moved relative to the housing 50 in response to rotation of the adjuster 40; and

a detent mechanism including a radially *exterior* detent contour 80 (*id.* col. 5, lines 18-30. See Attachment in the Office action on September 20, 2007, hereinafter “Att.”) partially extending axially within the bore 70 and a spring element 42 having at least one retention segment 95 (FIG. 10) partially extending axially within the bore 70 (FIG. 5) and a support segment 93, the retention segment 95 of the spring element 42 being continuously engaging the detent contour 80 from *outside* the adjuster 40 during control cable adjustment (FIG. 5, *id.* col. 5, lines 25-30 and col. 6, lines 53-64), the support segment 93 of the spring element 42 supported by the housing 50 (FIG. 4). *Ibid.*, Claims 1-17.

Yamashita teaches the invention substantially as claimed except that Yamashita’s parts and Applicant’s invention’s parts are reversed. For example, (a) Yamashita’s detent contour 80 is reversed to be formed exteriorly instead of formed interiorly of the adjuster 40; and (b) Yamashita’s spring 42 or retention segment 95 is reversed to be located from the outside to the inside of the adjuster 40 so that the retention segment 95 continuously engages the detent contour 80 within the adjuster 40 during control cable adjustment.

It is common knowledge in the art to reverse Yamashita's parts as claimed, e.g., the detent contour 80 is reversed from the outside to the inside of the adjuster 40 and the spring or retention segment 95 is reversed from the outside to the inside of the adjuster 40 so that the retention segment 95 continuously engages the detent contour 80 from the inside of the adjuster as claimed. The reversal of Yamashita's parts would have been a matter of choice in design since the claimed structures and the function they perform are the same as the prior art. *In re Chu*, 66 F.3d 292, 36 USPQ2d 1089 (Fed. Cir. 1995). See also legal precedent regarding reversal of parts cited in MPEP 2144.04.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to reverse the parts of Yamashita such that the retention segment continuously engages the detent contour from within instead of outside of the adjuster during control cable adjustment. The modification of Yamashita's control cable adjustment device by reversal of Yamashita's parts to make the retention segment continuously engaging the detent contour from within the adjuster during control cable adjustment would not have been uniquely challenging to a person of ordinary skill in the art because it is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for the improvement." *KSR Int'l. Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741, 82 USPQ2d 1385, 1396 (2007) and MPEP 2141 to 2145.

Regarding claim 16, the detent contour 80 has a non-round cross section (FIG. 5) and is configured such that the retention segment 95 has freedom to deflect, the retention segment 95 is configured to extend substantially parallel with the control cable 14b extending through the adjuster 40 (see FIG. 3 in Att.).

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Regarding claim 17, the detent contour 80 includes varying surfaces (FIG. 5) configured to engage the retention segment 95 such that rotation of the adjuster 40 in a first direction inherently requires a higher rotational force than rotation of the adjuster 40 in a second direction.

Regarding claim 18, the detent contour 80 has flutes or grooves 80 (see Att.) extending in an axial direction of the adjuster 40.

Regarding claim 21, the retention segment 95 and the support segment 93 of the spring element 42 are loaded primarily flexurally.

Regarding claim 22, the adjuster 40 has a continuous periphery and a thread 78 for matingly engaging the housing 50, the detent contour 80 extends coaxially with the adjuster thread 78.

Regarding claim 25, the retention segment 95 deformably traverses along the detent contour 80 within the adjuster 40 (in order to engage either the same channel or another channel formed longitudinally along the threads 78 of the adjuster 40). *Ibid.* col. 6, lines 53-64.

7. Claims 19 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Applicant's arguments filed November 20, 2007 have been fully considered.

Applicant's arguments with respect to the previous rejection of Claims 15-18, 21, 22, and 25 under 35 USC 102(b) as being anticipated by Yamashita have been fully considered and are persuasive. Therefore, the prior rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Yamashita based on 35 USC 103, *KSR*, and MPEP 2141-2145 as seen above.

For the foregoing, the Examiner respectfully submits that this application is not in the condition for allowance.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 571-272-7109. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Vinh T Luong/
Primary Examiner, Art Unit 3682
February 13, 2008